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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

FARO DE LUZ, INC., Plaintiff and Respondent, v. OLGA GARCIA, Defendant and Appellant.	B234564 (Los Angeles County Super. Ct. No. BP113329)

APPEAL from a judgment of the Superior Court of Los Angeles County. Michael Levanas, Judge. Affirmed.

Greta S. Curtis for Defendant and Appellant.

Silvio Nardoni for Plaintiff and Respondent.

Olga Garcia appeals from the judgment entered after the probate court determined that her late husband had no ownership interest in property owned by the church he helped found even though the husband and the church's corporate entity were both named on the deed. Because there is sufficient evidence that the husband's name appeared solely as a means of providing the seller additional security, and that the husband never intended to take ownership, we affirm the judgment.

FACTS AND PROCEDURAL HISTORY

Pastor Noel Garcia founded the Faro De Luz[1] church in 1978, and the church incorporated as a nonprofit religious corporation – Faro De Luz, Inc. – in 1979. In 1990, Garcia, acting on behalf of the church corporation, negotiated the purchase of a church located at 1545 West 35th Place that was owned by the Mount Calvary Missionary Baptist Church. The purchase price was $276,000. The grant deed, recorded in March 1990, listed the buyers as "Noel Garcia, a single man, and Faro De Luz, Inc., a California non-profit corporation."

Garcia died in 1995 without leaving a will. His widow, Olga Garcia, was appointed as personal representative of Garcia's estate in January 2009, and in August 2009 she filed a petition with the probate court seeking a declaration that she was the successor to Garcia's apparent half-interest in the church property under the laws of intestate succession.[2] The church corporation filed a probate court petition in October 2009, alleging that even though the deed to the church property listed Garcia as part owner, Garcia paid nothing to acquire the property. Instead, the petition alleged, Garcia never intended to acquire or assert any beneficial interest in the property and publicly disclaimed holding any such interest. (Prob. Code, § 850.)

At the trial on the church corporation's petition, lawyer Richard De Bro testified. De Bro had represented seller Mount Calvary church and its pastor, Casey

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[1] Faro De Luz translates as "Beacon of Light."

[2] For ease of reference, we will refer to Olga Garcia by her first name.

Chambers, in the church property sales transaction. In addition to a $36,000 down payment, Mount Calvary took back a first trust deed and note for $180,000 and a second trust deed and note for $60,000. According to De Bro, he and Chambers had dealt with only Garcia and therefore knew little about the financial condition of Faro De Luz. Accordingly, in order to protect Chambers and his church, Garcia was added to the title so he could provide additional security on those notes. De Bro explained to Garcia that this meant Garcia and Faro De Luz would each own the property and would also each be liable on the notes.

Juana Navarro is the church corporation's current president, and was the church's assistant treasurer and later the treasurer in the years leading up to and following the purchase of the church property. According to Navarro, Garcia said he was on title "to be one person who had to become responsible, but that he was not the owner." Garcia made this statement in front of the church and its corporate officers to clarify why his name was on title, Navarro said. According to her, the church thought the property would be in the corporation's name. Those present accepted his explanation. Garcia never said the property would go to his wife or children.

Although a receipt for the $36,000 down payment signed by De Bro said the funds were received from Garcia, Navarro said the cashier's check in that amount was paid for by funds raised from church members, and was not from Garcia's funds. Likewise, monthly payments on the mortgage came from the church's bank account and the note on the first trust deed was eventually paid in full by the corporation with funds raised from the congregation. When Garcia expressed concerns that he had no money to leave his family when he died, the church paid for a life insurance policy in his name. When he died, the proceeds went to Garcia's children and mother, Navarro said.

Although the first trust deed and note for $180,000 had been assigned to someone else, the seller held onto the second trust deed and note for $60,000. For reasons that are unclear, the church corporation did not learn of the second note until the new holder of the first note mentioned it when his note was paid off sometime in

2000. According to Erwin Fernandez, a longtime church member and the corporate secretary since 1994, the church corporation tried but failed to locate the seller, and therefore did not pay off that note. According to De Bro, Olga bought that note for $30,000 in 2009.

Other longtime church members and officers confirmed Navarro's account. Rosa Arriaga testified that she never heard Garcia claim any ownership interest in the church property. Longtime corporate secretary Fernandez testified that he was Garcia's friend. According to Fernandez, Garcia said on multiple occasions that he was not the owner of the church property and that it "would be the people's." Garcia said several times that his name was placed on title solely to facilitate the purchase of the property. Even though Garcia was married to Olga when the purchase occurred, Garcia listed himself on the deed as a single man "because he said that when he would pass away, nobody was going to keep any of it." According to Fernandez, Garcia called a meeting of the congregation and the board of directors, attended by as many as 120 persons, where he explained that his name was on the deed only in order to consummate the purchase and that he claimed no ownership of the property.

Olga testified that she learned Garcia's name was on the deed after the down payment was made. According to Olga, Garcia loaned the church less than $2,000 to buy the property, while she made a loan of $500. Both loans were paid back. She was not aware of any more financial assistance by Garcia to assist with the purchase of the church property. Olga went to church meetings and never recalled Garcia stating that he claimed no ownership interest in the property. Garcia's name had to be on the deed "[b]ecause he was the one who bought the building. He was the one who gave the down payment from the money collected from people."

Garcia's two sons, Elio and Eddy, also testified. Elio did not learn his father's name was on the deed until a few years before the trial. His father "didn't say that [the church property] was his or that it wasn't." Eddy testified that he had never seen the grant deed before. Eddy admitted that after his father died, he received proceeds from a life insurance policy.

The trial court entered a ruling by way of a minute order. Based on the testimony set forth above, in particular that of De Bro, the court found clear and convincing evidence to overcome the rebuttable presumption of Evidence Code section 662 (section 662) that title belonged in part to Garcia because his name was on the deed. Distilled, the trial court found that Garcia's name was on title solely in order to facilitate the purchase, and that his public statements to that effect, along with his disclaimer of any ownership interest in the property, were explained by the facts that Garcia had limited financial resources and loaned the church only a small amount to help finance the purchase.

Based on Garcia's disclaimers of ownership, the trial court alternatively found that Olga was estopped under Evidence Code section 623 from asserting that Garcia had any ownership interest in the property.[3] For the same reasons, the trial court found that Olga was estopped from asserting a statute of limitations defense to the church corporation's claims. The trial court ordered Olga to execute a deed conveying Garcia's record title interest to the church corporation. A judgment to that effect was later signed and filed.

STANDARD OF REVIEW

Both parties characterize the trial court's minute order explaining its ruling as a statement of decision. Olga contends that the abuse of discretion standard applies because the trial court found that a resulting trust existed in favor of the church corporation. The church corporation contends that it expressly disclaimed any trust-related theories at trial, and that the substantial evidence standard applies.

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[3] Evidence Code section 623 codifies the common law doctrine of equitable estoppel, and provides that when a party's statements or conduct intentionally and deliberately mislead another to act upon the belief that something is true, he may not contradict that position in litigation arising out of such statements or conduct. (*Leasequip, Inc. v. Dapeer* (2002) 103 Cal.App.4th 394, 403-404.)

We do not accept the trial court's minute order ruling as a statement of decision. The minute order ruling is not labeled as such, the record does not show that any party requested a statement of decision, and the judgment also fails to mention a statement of decision.

The trial court's memorandum decision is not a substitute for a statement of decision. Although it may purport to decide the issues in a case, it is merely an informal statement of the trial court's views and does not constitute findings of fact. (*Shaw v. County of Santa Cruz* (2008) 170 Cal.App.4th 229, 268.) While we may use the trial court's memorandum decision to interpret its findings or conclusions, it may not be used to determine whether or not the findings are supported by the evidence. (*Id.* at pp. 268-269.) Because there is no statement of decision, we will imply all findings necessary to support the judgment that are supported by substantial evidence. (*In re Marriage of Starr* (2010) 189 Cal.App.4th 277, 287.)

DISCUSSION

1. *There Was Sufficient Evidence That Garcia Was Never Supposed to Possess an Ownership Interest in the Church Property*

Probate Code section 850 describes a wide class of persons who may petition the court to determine the existence of competing or conflicting claims to real or personal property. Relevant here is subdivision (a)(2)(C) of that statute, which allows for such a petition by the appropriate personal representative or any interested person "[w]here the decedent died in possession of, or holding title to, real or personal property, and the property or some interest therein is claimed to belong to another."

The primary conflict raised by the church corporation's petition arose from Evidence Code section 662, which provides: "The owner of legal title to property is presumed to be the owner of the full beneficial title. This presumption may be rebutted only by clear and convincing proof." Even though the trial court was required to apply that higher standard of proof, however, that burden effectively disappears on appeal and we apply the traditional substantial evidence standard of

review. (*Burton v. Cruise* (2010) 190 Cal.App.4th 939, 945-946; 9 Witkin, Cal. Procedure (5th ed. 2008) Appeal, § 371, p. 428.)

The section 662 presumption is designed to promote the public policy favoring the stability of titles to property. In the absence of any contrary showing, the status declared by the deed through which the parties acquired title is controlling. (*In re Marriage of Brooks & Robinson* (2008) 169 Cal.App.4th 176, 185 (*Brooks*).) "The presumption can be overcome only by evidence of an agreement or understanding between the parties that the title reflected in the deed is not what the parties intended." (*Id.* at pp. 189-190.) The presumption cannot be overcome solely by tracing the funds used to purchase the property, by evidence that title was taken in a particular manner merely to obtain a loan, or by evidence of an intention not disclosed to the grantee when the deed was executed. (*Id.* at p. 190.)

Based on these authorities, we will affirm if the evidence supports an implied finding by the trial court that there was an understanding between Garcia and the church corporation that they did not intend the title reflected in the deed to convey an ownership interest to Garcia. We conclude there was more than enough evidence to do so.

Consistent with *Brooks, supra*, 169 Cal.App.4th at page 190, there was more than just evidence that Garcia took partial title to obtain financing for the purchase, and that apart from a small loan which was repaid, none of his money was used to buy the property. Even though Garcia was married to Olga at the time, he had his name placed on title as a single man, and said he did so to make sure nobody would keep the property after he died. While Olga makes much of De Bro's testimony that he told Garcia that having his name on title made him a part owner of the church property, Garcia repeatedly and publicly proclaimed to the congregation and the church corporation's board of directors that he did not claim any ownership interest in the property. In other words, despite Garcia's knowledge of the legal effect of having his name on the deed, he publicly rejected any such interest. According to Navarro, who was assistant treasurer at the time of the purchase, and is now the president of the

church corporation, the church believed the property would be in the corporation's name. We hold that this evidence shows that even though Garcia's name was placed on title to facilitate the transaction, there was an understanding that it would not actually convey any title to him.

Olga attacks such a finding on several grounds, all of which lack merit. First, she contends that parol evidence was not admissible to establish the intent of the parties, and that a written agreement by which Garcia promised to reconvey his record title was required. As made clear in *Brooks, supra,* 169 Cal.App.4th at pages 189-190, the section 662 presumption can be overcome by evidence of either an agreement or an understanding between the parties as to how title is truly held. Moreover, it has long been the law of this state that parol evidence is admissible to overcome the presumption. (*Socol v. King* (1950) 36 Cal.2d 342, 345-346 [presumption that property bought by married couple is held in joint tenancy can be overcome by evidence of oral or written agreement, or by conduct and statements by the parties from which a contrary understanding can be inferred]; *Anthony v. Chapman* (1884) 65 Cal. 73, 73-74 [presumption of title can be overcome by parol evidence].)[4]

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[4] Olga cites two decisions to support her contention that parol evidence was not admissible: *Fidelity National Title Ins. Co. v. Miller* (1989) 215 Cal.App.3d 1163 (*Fidelity Title*), and *Cochran v. Union Lumber Co.* (1972) 26 Cal.App.3d 423 (*Cochran*). She also cites *Taylor v. Bunnell* (1931) 211 Cal. 601, 606 (*Taylor*), and *Toney v. Nolder* (1985) 173 Cal.App.3d 791 (*Toney*), for the propositions that the church corporation was required to prove the existence of a contract showing Garcia did not intend to take title, and that the corporation had the burden of proving that the deed "was not what it purported to be on its face." None is applicable.

Taylor stands for the proposition that a trust to convey property held in another's name must be shown by clear and convincing evidence. As discussed *post*, during the trial, the church corporation expressly disavowed any intent to pursue a trust theory, and nothing in the record suggests that the judgment is based on the existence of a trust. *Toney* stands for nothing more than the proposition that the section 662 presumption must be rebutted by clear and convincing evidence even if the parties were in a confidential relationship.

Fidelity Title involved an action by a title company against a seller for breach of warranty after the title company paid the insured buyer for diminution in value due

Next, Olga cites to *Jones v. Wolf* (1979) 443 U.S. 595 (*Wolf*), which held that when the secular courts determine ownership to church property as between competing factions arising from an internal church schism, they should use a "neutral principles of law" approach if resolution of the case turns on a doctrinal dispute. (*Id.* at p. 597.) This includes consideration of sources such as the relevant property deeds, the local church's articles of incorporation and by-laws, the general church's constitution, canons, and rules, and relevant statutes specifically concerning religious property. (*Episcopal Church Cases* (2009) 45 Cal.4th 467, 473.) According to Olga, the trial court in this case "never reviewed the articles of incorporation, by-laws, or church constitution of Faro because if it had the decision would have been different in light of the statutes governing the corporation sole statutes and title. Nor were the relevant state corporation soles [*sic*] statutes taken into account."

Answering the first part of this contention is easy. Although late in the trial it turned out that there was some sort of internal dispute between competing Faro De Luz factions, there was no evidence that this dispute concerned church doctrine, and, more importantly, the case was not tried on the basis of any such dispute.[5] Instead,

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to an easement it had missed. The Court of Appeal reversed a summary judgment for the seller because there were disputed fact issues concerning the title company's knowledge about the easement's existence. At issue was the interpretation of Civil Code section 1113, which implies a covenant against encumbrances in a grant deed unless restrained by express terms in the conveyance. The seller argued that there was evidence of an implied oral agreement to that effect between him and the buyer, but the Court of Appeal held such evidence was not admissible because there were no ambiguities in the grant deed that would permit parol evidence on that point. (*Fidelity Title, supra,* 215 Cal.App.3d at p. 1173.)

Cochran merely held that a certain and unambiguous deed prevails over an inconsistent contract concerning the scope and effect of the deed. (*Cochran, supra,* 26 Cal.App.3d at p. 429.)

5 Joel Morales, who is Olga's cousin and also Garcia's successor as pastor of Faro De Luz, testified that an internal dispute led some congregants to form another corporation, Faro De Luz Central, Inc. According to Morales, Faro De Luz Central was operating out of the same church property in dispute here pursuant to a lease with

the only issues raised concerned a straightforward application of section 662 in light of the evidence concerning Garcia's intention. Accordingly, we do not believe that *Wolf* is applicable here.[6]

Answering the rest of this contention is more difficult, in part because we do not fully understand it. Olga refers to the church corporation's status as a corporation sole, which is governed by Corporations Code sections 10000-10015. A corporation sole is formed in order to hold title to church property in the name of only one person – usually a religious authority figure – in order to ensure that the property is continuously dedicated to the benefit of a particular religious organization. (*Berry v. Society of Saint Pius X* (1999) 69 Cal.App.4th 354, 366-367, 368-369.) However, the articles of incorporation state that Faro De Luz incorporated as a nonprofit religious corporation, which is governed by an entirely different statutory scheme. (§§ 9110-9690.) In any event, Olga's appellate brief does not cite to any particular portions of the church corporation's by-laws, articles of incorporation, or other documents in order to show that any were violated or contradicted by the trial court's ruling.

Finally, Olga highlights what she views as inconsistencies or weaknesses in the testimony that render the evidence insufficient: the reliance on statements by someone who is dead; the absence of evidence that Garcia ever promised to convey his half-interest in the property to the church corporation; and declarations by Navarro and Fernandez in another matter stating that Garcia was a 50 percent owner of the property. However, these were matters that went to the credibility of the witnesses, and the trial court was free to resolve any evidentiary weaknesses or conflicts in favor of the church corporation. So long as the evidence supports the trial

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Olga that called for monthly rent of $1,000. This sum was payable to Olga's trial and appellate counsel, Greta S. Curtis, and was apparently placed in a trust account to cover the costs of this action.

[6] However, as a practical matter, because our decision is based on nothing more than a straightforward analysis of the evidence in light of the requirements of section 662, we have applied only neutral principles to resolve this appeal.

court's findings, we will affirm the judgment. (*Lorenz v. Commercial Acceptance Ins. Co.* (1995) 40 Cal.App.4th 981, 998.)

2. *Estoppel to Assert Statute of Limitations*

The trial court found that Garcia's public disavowals of ownership equitably estopped Olga from asserting the statute of limitations as a defense to the church corporation's claims. Such an estoppel is proper where the plaintiff relied on some conduct by the defendant to refrain from filing an action within the statutory limitations period. (*Holdgrafer v. Unocal Corp.* (2008) 160 Cal.App.4th 907, 925.) Proof of bad faith or an intent to mislead are not required. It is enough that the defendant's conduct in fact induced the plaintiff to refrain from bringing suit. The existence of an estoppel is a question of fact. (*Id.* at pp. 925-926.)

Olga challenges the trial court's finding, but not on the sufficiency of the evidence. Instead, she contends that the estoppel determination was based on a finding that Garcia breached Corporations Code section 9243, which prevents directors of nonprofit religious corporations from taking part in self-dealing transactions.[7] Because that section has a five-year limitations period (§ 9243, subd. (e)), she contends, without discussing either the law of estoppel or the facts introduced at trial, that the action was time-barred. In the next breath, however, after stating that the time bar of section 9243 applies, she argues that the section is inapplicable because Garcia was the head of a corporation sole.

We will not let this muddle detain us for long. Regardless of what limitations period applied to the church corporation's claim, the evidence is sufficient to sustain a

[7] The church corporation reluctantly advanced such a theory at trial, stating that it did not believe Garcia had any self-dealing intent when he allowed his name to be placed on title to the church property.

finding that Olga, through Garcia, was estopped to assert it.[8] There was evidence that Garcia repeatedly and publicly disavowed the ownership interest shown by the deed, and that the church's congregants and board members accepted Garcia's explanation. Inferentially, therefore, they relied on his statements and took no legal action to remove him from the title.

3. *The Church Corporation Had Standing*

The church corporation's probate court petition was signed by corporate secretary Fernandez. Olga contends the corporation lacked standing to bring this action because it was a corporation sole whose by-laws awarded to only the president the power to commence legal proceedings. She is wrong on both counts. As stated before, there is no evidence that the church corporation was a corporation sole. The corporate by-laws and articles of incorporation are silent on the issue of who may commence legal proceedings in the corporation's name, but the by-laws state that the secretary's duties include "all duties incident to the office . . and such other duties as . . . may be assigned to him or her from time to time by the Board of Directors." Absent evidence that the secretary lacked such authorization – a point that was not developed at trial – we decline to hold that this action was improperly commenced.

4. *Issues Unnecessary to Our Decision*

Olga raises several other issues that we need not reach or that merit little discussion: (1) that the trial court erred by determining that Garcia breached his duty against self-dealing transactions under Corporations Code section 9243 because he was the head of a corporation sole, making that section inapplicable; (2) the trial court erred by concluding that Garcia's public disavowals of any ownership interest in the church property estopped Olga from claiming title through Garcia; (3) the trial

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8 The most likely candidate is found in Code of Civil Procedure section 319, which supplies a five-year limitations period for actions arising out of title to real property.

court erred by imposing a resulting trust on the church property in favor of the church corporation; and (4) Olga is entitled to a half-interest in the property under the law of intestate succession.

As to the first, as discussed earlier, there is nothing in the record to support the contention that the church corporation was anything other than a nonprofit religious corporation. Furthermore, there is no indication that the trial court ever made a finding on that ground.

As to the second, Olga contends that evidence of a promise by Garcia to convey his interest in the church property to the church corporation was required in order to invoke an estoppel under Evidence Code section 623. Regardless of the validity of this assertion, we have already determined that there is a proper basis to affirm the judgment because the church corporation rebutted the presumption of title under section 662.[9]

As to the third, the church corporation told the trial court it did not seek relief under theories of constructive or resulting trusts, and there is no indication that the trial court relied on a trust theory.

Finally, Olga's intestate succession claim necessarily fails because, as we have already held, the evidence supports the trial court's finding that Garcia never actually acquired title in the first place, thereby justifying an order that Olga convey title to the church corporation.

5. *Failure to Order Repayment of Olga for Second Trust Deed*

Olga contends the trial court erred by failing to repay her $194,400 for the $60,000 second trust deed and note on the church property that De Bro testified she bought for $30,000 in 2009. Apart from the mathematical confusion underlying this

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9 The doctrine of equitable estoppel may be applied to disputes over title to land, but the person making the misleading statements must have acted with either actual fraud, or have been so grossly negligent that the statement amounts to constructive fraud. (*City of Long Beach v. Mansell* (1970) 3 Cal.3d 462, 489-491.)

contention, Olga never asked the trial court for such relief, and the details surrounding what De Bro described as her purchase of the note were never placed in evidence. Under the theory of the case doctrine, we therefore hold that Olga may not raise this new factual issue for the first time on appeal. (*Sanchez v. Truck Ins. Exchange* (1994) 21 Cal.App.4th 1778, 1787.)

DISPOSITION

The judgment for Faro De Luz, Inc., is affirmed. Respondent shall recover its appellate costs.

RUBIN, J.

WE CONCUR:

BIGELOW, P. J.

FLIER, J.